2:Evans-Pritchard E-5 (1936) 1949
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613
614 Kavirondo, between the different lineages, sometimes betwen a lineage of the dominant clan and sometimes between two stranger lineages.

In the past there seems to have been no serious difficulty about land;
613 there was plenty of it and more could be acquired by war and migration.
614 People were glad, I was told, to welcome strangers who added to the fighting strength of their community and who provided them with wives
609 for their sons. The strangers settled as *orce*, in-laws, and become maternal
578 uncles and sisters' sons. Personal relations between the members of the lineage of the dominant clan and the strangers who settled among them and intermarried with them were all of a kinship order. But these relationships of a kinship kind are structural points at which affiliated lineages are grafted on to the tree of descent of the dominant clan. Personal relations give place to structural relations. People do not readily quarrel with their own parents-in-law or maternal uncles or sisters' sons about land, but when the pressure of population becomes acute they may dispute with those who count as lineage in-laws, lineage maternal uncles, or lineage sisters' sons, that is to say when the relationship has become a structural one and ceased to be one of an intimate kinship kind, for intermarriage and thereby the formation of new kinship links between a lineage and another living on its land must for reasons of exogamy become less and less. There is a bit difference between a member of the JoSeje lineage of Alego and a man of a stranger lineage whom he calls sister's son in a personal sense and a man whom he calls sister's son in a structural sense.

[178] Hence we find to-day in the overcrowed tribal areas considerable inter-lineage enmity about land. If it is not a new feature of Luo life it has certainly been accentuated by European rule and restrictions. Tribal cohesion has suffered from peace and land hunger has increased disharmony.

613 The *jopiny* claim the land in virtue of their ownership of the tribal
614 territory and point to their *gundini*, their ancient homestead sites, which are remembered for many generations, and to the graves of their ances-
578 tors in the disputed area. But stranger lineages which have grown numerous and powerful may also claim to be *jopiny* in the same area in that
423 they have resided there for many generations and also can point there to their ancestral homestead sites and the graves of their forebears. Sometimes a second stranger lineage have grown strong at the expense of a first and pushed them off their lands, so that three lineages can lay claim to the district. Problems of this kind were arousing much feeling in Alego during my visit, for there land is becoming scarce. They may be further complicated by the fact that the present dominant clan has in the past ousted a clan once dominant in the territory and who also have in the land their homestead sites and graves, for it is held by all Luo that title deeds to lands are ancient homestead sites and ancestral graves and that a man has a right to ask for land to cultivate in the district where his ancestors lived and are buried. This does not mean that a man can come back from the tribal area in which his family have lived for several generations to that in which his earlier forebears lived and claim the land

2:Evans-Pritchard E-5 (1936) 1949
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on which a *gunda*, homestead site, of one of them is situated ; but it means that he has a right to cultivate somewhere in that district. There is in this way an overlapping of rights in a territory.

Among the Luo ownership of agricultural land is vested in the lineage and every member of a lineage which owns an area has the right to cultivate in it. The individual has only rights of use, which are hereditary so long as the land is maintained in use ; but a man cannot sell the land, for his whole lineage and maybe other lineages as well have rights in it ; nor can he reclaim it if he has left it for some years and it is being cultivated by another man. Grazing land (*pap*) is always common. An individual can share his agricultural land with kinsmen, such as a daughter's husband or sister's son, and stranger lineages take root in the soil in the first instance through a personal tie of this kind. Sometimes a lineage of strangers flourish at the expense of the lineage whose forebears first gave permission to their ancestors to cultivate the soil and they begin to get a grip on the land and to count their graves and homestead sites in it. Or the lineage which owns the land increases and wants more land for its own members but finds that the land it wants is under cultivation by the descendants of strangers who now regard it as theirs by right and they begin to contest their occupation of it. They cannot directly challenge their use of the land nor just oust them from possession while they are using it, but they encroach on their cultivations and by constant pressure try to squeeze them out. The strangers have redress before European constituted courts but if they are weak they do not care to resort to them because they know that even if they win the case they must continue to live among their more powerful neighbours against whom they have proceeded. For such situations one cannot find rulings in past custom and when disputes of this kind occur to-day settlement depends on a variety of factors, the strength of the stranger lineages, their wealth, their influence with the chiefs and their ability to bribe them, and so forth.

7

This paper is sketchy and the survey on which it is based was superficial. Those investigating the Luo at the present time will doubtless give a fuller, more accurate, and more balanced, account of their social organization. Nevertheless, the enquiry has served its limited purpose in that it has shown that Luo political structure with its lineage framework is in essential characteristics like that I have recorded for the Nuer. There are some differences, which I hope to discuss soon in a comparative study of Nilotic lineages as a contribution towards that study of lineage sy tem on a broader African and world-wide basis which research is slowly making possible. However, it may not prove easy to determine whether the differences are significant till an intensive study of the Luo has been made. All this paper claims to do is to show that the Luo have the same type of structure as the Nuer. Recent research has demonstrated that both Anuak and Shilluk have a lineage structure though it is

10: Roscoe M-5 (ca. 1900)1915
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Government.

643 **Chiefs as rulers.** There is no king of the country, nor is there any single paramount chief; the Bantu chiefs claim equal, if not superior, rights to the land. Certain chiefs rule over extensive districts inhabited by the Nilotics, and their rights as leaders are considered to be hereditary; they are also looked to in cases requiring settlement or legislation.

423 **Land tenure.** Land which has not been cultivated in the past may be tilled by any family; but, when once it has been tilled, the community regard it as the property of the family whose ancestor first cultivated it. Should it be left fallow for a number of years, no other family may appropriate and till it without first obtaining the original owner's permission. Few people seek such permission, preferring to dig virgin-land which will afterwards belong to their children.

621 **Local chiefs as the magistrates.** The people live in communities. They build their houses in close proximity and in most cases surround them with a growing fence, leaving a gateway which can be closed during the night or in times of
622 danger. Such a village group is ruled by a sub-chief who is under the authority of the district-chief. The chief of a village is magistrate and controls the general affairs of his people. This chief levies no taxes, but his people make him presents of goats and sheep, and of grain also at harvest time.

692 **Courts and court fees.** Any person wishing to bring a charge against another for any offence, real or imaginary,
694 pays a small fee to the chief of the village before whom he lays
695 his complaint or accusation. The chief or elder then summons the accused person and appoints a time when the case shall be heard. The chief sits with one or two village elders and gives his judgment. A person may appeal from a village chief to the principal chief in the district, and the elder who first tried the case will then go to the superior chief to be present when the case is reheard. The parties appealing have
681 to pay fresh court-fees before the case is retried. The punishment in almost every case is a fine and the amount is determined by the gravity of the case. The losing party has to

16: Northcote G-5 (no date) 1907 FL11 Luo FL11

642 643 have absolute power, but in reality their influence is not great. Each chief subdivides his territory, placing each portion under a sub-chief. These sub-chiefs or headmen are supposed to attend frequently at the chief's village in order to hear and carry out his orders. If a crisis arises, an informal council of the heads of the village is called and the *patres familiarum* can express their views, though the decision rests with the chief. There is no kind of voting. This council will also assemble if the rule of the chief becomes intolerable. They may threaten to secede, but their resistance is always passive; the usual result, however, is that one or more of the headmen set up as chiefs on their own account, and quietly [423] disregard the orders of their *quondam* superior. Land is held in common by the members of each clan, but jealously guarded from subjects of all other chiefs. A [166] man may, and frequently does, move from one clan to another, but in that case he has to obey the orders of the chief to whose clan he has attached himself. There are no formalities attendant on such a change.

578 Trespass by the members of one chieftaincy upon the land of another is indeed the usual cause of the frequent small quarrels which arise and very often lead to bloodshed.

423 621 [177] Internally, however, private ownership of land has to some extent made its appearance. The Jaluo village represents a family, the headman being the father or (if he be dead) the eldest brother. Besides his family he will, if he is a chief, or sub-chief, generally shelter one or two retainers whom he calls his *askari*,[1] police. When the time comes for laying out the *Shamba*[1] or agricultural land, each adult male and female marks out and tills his own piece, the married women being helped by their daughters and younger sons; although the family in practice share the produce, theoretically the crop from each plot belongs to the member who tilled it; thus, if one of the sons wishes to sell some grain he can only sell what he has grown himself, and, similarly, one *askari* reaping what another has sown would be considered a thief.

685 423 Cases occasionally arise which illustrate this: if A's cattle or goats wander into B's *shamba*, though A and B live in one village, B claims compensation. Private tenure is, however, only temporary. If a village uses a certain piece of land for a year and then leaves it, another village may cultivate there; but as the *shambas* are usually close to the villages, and villages are separated by some little distance, such cases of appropriation are practically unknown. The rights, however, to a certain piece of land are only squatter's rights and confer no claim *in perpetuo*.

361 [343] In shape the Jaluo village is circular and is fenced round with euphorbia bush, stone or mud walls, or watling, as may be most convenient. In the centre is the cattle pen; around this are the store houses of basket or wicker work; they are raised some two feet from the ground and are about five feet high and three feet in diameter; there is a small opening near the top sufficient to

[1] Swahili word adopted.

21:Huxley Q, T-5 (no date) 1960 FL11 Luo FL11

resistance to the forward march of Progress in the agricultural field. No spontaneous wish for any branch of Progress except the political seems to have gripped the collective Luo mind. Here, on these hot and apathetic lakeland flats, all the impetus has come from Europeans.

It might be argued that the Government has no call to make people change their ways against their will. This indeed is an argument much used by Luo politicians. It is an old story: should nanny sit by and watch Master Robert break up his toys—in this case, ruin the soil, create acute erosion, turn the whole of Nyanza province, which contains one-third of Kenya's population, into a great rural slum?

Beyond question, that was going on. In Nyanza province there are over two million cattle, about one to every two acres. It would be a job to support this rate of stocking on the finest pastures under skilled management; here it is utterly impossible. The cattle have become so small and shrivelled that they are really not much larger than Great Danes, but their sharp hoofs can still make and deepen gullies as they track a way to springs. During the last three years, the output of crops in the province has halved, because yields have dropped so sharply. Yet there are more and more mouths to feed.

All the evils of land abuse were here displayed in concentrated form. No manure, no rotations, no resting land under grass; maize or cotton again and again, planted too late and in the wrong manner; no trees, communal grazing destroyed by useless skinny little beasts. It was not for want of trying by the technical staff. For years they had been urging, persuading, bullying, demonstrating, and they had scarcely dented Luo indifference and complacency. Famine was beginning to threaten these overcrowded areas—for the one thing the people continued to produce more and more of was their own kind.

II

And so the Government decided that the only salvation for the Luo lay in dividing their communally owned land into individual holdings. Land consolidation—the first stage

21:Huxley Q, T-5 (no date) 1960 FL11 Luo FL11

towards enclosure—was proclaimed as the official policy and, in 1958, an area called Nyabondo picked out for an experiment. The edict went forth that everyone must define his holdings, mark them out and do, in fact, as the Kikuyu were doing with such success, not to mention the Nandi and Kipsigis and many others.

On the heels of the agricolas with propaganda, local politicians moved in to tell the people it was all a trick to steal their land. Whether or no everyone believed this, no one dared to quarrel openly with the politicians, and not a single land-holder obeyed the Government.

'On 30th December, I called a meeting and closed the whole thing down,' Mr. Peter MacEntee, the D.C., told me. 'All right, I said, if you don't like it you needn't have it; ruin your land if you want to, as much as you like; what do we care? It's your funeral. Go ahead, and good luck to you. The agricolas will leave you alone from now on, the instructors are pulling out to places where people want them; we understand now that this sort of thing is *far* too advanced for you. Keep up the bad work, and good-bye.'

Mr. MacEntee had evidently enjoyed this. In time the Luo, when in their mule-like frame of mind, subdue the greatest enthusiasts. But there was a sequel.

'Three weeks later, half a dozen men from Nyabondo turned up in my office. They had a little plan, with some *shamba* boundaries marked on it. "We have decided to consolidate," they said. "Here are the boundaries of the first *shambas* we've completed. We've marked out each man's fragments and exchanged them as you said. Now we want to lay them out on proper lines. Please send us an instructor and a European."

'This was the first deputation. Others followed. Now the whole of Nyabondo is completed—the first in central Nyanza. We know what to do now. Use the couldn't-care-less technique.'

Another example: on the Kano plains, where rice grows under irrigation, until this year the agricultural department has looked after the bunds. They had endless trouble—arguments, sullen silences, even sabotage. They got the output up to 30,000 bags and there it stuck. Then they withdrew,

21:Huxley Q, T-5 (no date) 1960 FL11 Luo FL11

telling the rice-growers they must make and maintain their own bunds. Last season the output jumped to 50,000 bags.

III

We drove to Nyabondo across the Kano plains. No one loves these plains. They are not only flat, they are absolutely treeless, dry, cracked, windswept, overcrowded, dusty and mean. The soil is 'black cotton', an especially viscous clay in which any vehicle bogs down irrevocably in wet weather—very fertile potentially, but soul-destroying to work. 'The people are like their soil,' I was told. 'They break your heart and yet you go on trying, something's there.'

Everywhere are circles of a particular euphorbia, a dark-green, harsh, ugly plant that grows about eight feet tall and surrounds every group of huts. When a family head dies, his homestead is evacuated, his huts are left to rot away and only the euphorbia hedge remains, so the plains are covered with old circles as well as those in use. People have tried planting eucalyptus trees, but white ants eat them before they are man-high.

No individual cultivates his land in one piece. He digs or ploughs a patch here, a patch there, another bit over there, two more bits down the hill and a piece two miles off across the valley that belonged to his mother's uncle. This is known as fragmentation; it is almost universal among Bantu people, exists also among others such as the Luo, and is like a net spread for the feet of Progress in which he becomes enmeshed and stultified.

The first stage of land enclosure must be for every cultivator to exchange fragments with his neighbours, so that all his land is gathered together in one piece. It is the first stage and also the hardest; land is life's blood to the people; it is like exhorting men to exchange their blood, or their children. Suspicions dart out of their holes like bee-eaters. Won't so-and-so, my neighbour, get an unfair share? The bit he wants to swap for my piece is smaller. Give up my fertile patch by the river where bananas flourish for that barren stretch of hillside? Never! Somewhere there is a trick in all this. . . .

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Behind and beyond are old beliefs that are still alive. A man can lay upon a piece of land, when he is dying, an oath that binds his heirs to hold on to it for ever, and will destroy anyone who sells it out of the family—an entail with the sanction of magic. And then old homesteads on the Kano plains sheltering behind euphorbia hedges contain the bones of the deceased owner, who is buried under the floor of his hut. So consolidation may ask the son to exchange not merely a field of maize, but the bones of his father, the terrestrial anchor of his father's spirit. No wonder it is often too much to ask, and that politicians find these deep fires easy to fan.

To reach Nyabondo we climbed a small escarpment, the beginning of the Kipsigis hills, left the car beside a track and walked to the farm of a young, pleasant-mannered school supervisor called James Onyango, one of the leaders of the enclosure movement. We sat under a tree near his new tin-roofed modern bungalow, above a shallow valley with a stream. The country here is gently rolling and thickly dotted with roofs of homesteads. Many people had gathered in a circle; the women sat together in bright cottons and gay head-scarves, plump and glossy, most of them with grave-faced, round-eyed babies sleeping in their arms or crawling about the grass beside them. This question of land touches the women at the core. James Onyango told his story in English.

'The idea of exchanging gardens came to us two years ago; we had heard of it in other places; most of us were interested, and asked the Government to advise. We held a meeting and agreed unanimously to consolidate, all of us within the Kadianga clan, fifty-nine families. In our clan are three sub-clans; each appointed three men to form a committee. Each of these three was a *m'guru*—an elder whose task is to look after the land, and one of these was made the president.

'We started to exchange our gardens, and at first everything was fair. Then came elections for the Legislative Council and the District Council. The candidates thought they would gain popularity by speaking against the land schemes. They campaigned among the people, and some listened. They had clever ways. In each sub-location they had an agent who

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would write to the papers, or sign letters written for him, saying the people were against these schemes. And so some of us became confused. In this location we still wanted to exchange land, but some of our neighbours turned against it, and we had to stop.

'At the end of 1958 the opposition became very strong and the D.C. called a meeting to decide. The opposition staged another trick. They packed the meeting with supporters from other locations, even women who knew nothing about it at all. This was a noisy and a difficult *baraza*. Even with these methods, when it came to a vote the meeting was evenly divided. The casting vote was left to the D.C. He decided against it, and so the scheme was closed.

'We who had always been in favour were greatly harmed. We wanted the Government to bring water from the river, and surveying had already started for a piped scheme. Some of the elders went to the D.C. to ask him to change his mind, but he refused. In January, he agreed to send two people to Elgon Nyanza to see what was being done there. They saw it all, and when they returned we elected *liguru* after the pattern of the Elgon people. We called everyone together in groups, men, women and children, to plant hedges round the *shambas* that had been exchanged. I myself exchanged four pieces, and in some cases I paid money and cattle to get all my land in one piece. We managed to plant hedges round two or three *shambas* a day. Then we went to the D.C. and told him what we had done and asked him to send an officer to help us plan the use of our *shambas*. When he heard what we had done, he agreed.

'Now we have enclosed all the land of our clan and we want to have it registered. We asked the D.C., but there were still six men who refused, and the D.C. would not do it until everyone agreed. In the last few days two more have agreed, so now there are only four against it. When they agree we shall have titles to our land and then no one can upset the work we have done.'

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THE RELUCTANT LUO

IV

After Mr. Onyango had spoken, others said their piece, and I asked the opinions of some of the women, who will never speak unless they are directly asked. One replied, through an interpreter, in these words:

'I was against consolidation. My own land was fertile and I did not want to lose it and have other land not as good as mine. I tried to persuade my husband. We had many arguments, and the peace of our house was destroyed. At last I saw that I must give in if our home was to become peaceful again. We exchanged gardens, and then I saw that the new gardens were as fertile as my own. Now the men are helping women on the land and this is something that has never happened before. Men and women are working together. This is because the men see that there is money in growing crops and that bigger crops will make them rich.'

A second woman—both were middle-aged—spoke after her.

'I was not of that opinion. I wanted consolidation before it came here. If you have land near your home, you can work to improve it. If it is a long way off, you cannot put on manure. I understood the value of manure by seeing crops grown by the Better Farmers. Before, I had four *shambas* and one was over a mile away. Now they are all together and near my home. There is only one difficulty. Our custom is, when a son gets married, he leaves his father's *shamba* to start one of his own. I do not want to break this custom, but now I have a married son and there is nowhere for him to go.'

And a third woman, rather older, added her piece.

'I was in favour of consolidation too. The boundaries of land have caused many disputes and quarrels amongst us. When there are fixed boundaries, these quarrels fade away. So I wanted consolidation before it came, and my husband agreed. Now I can farm properly and put manure on the *shamba*; we have a shed for the cattle to stay in at night. Besides that, my husband employs two men. When he goes away I supervise them and the work is not so hard. Men and women never worked together before. Now they do, and this is a big thing.

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is a big thing. When we get some money, I shall ask my husband for a better house. We are in the way of progress now, but there is another thing: the Government must help us with our water, we need a scheme to bring it—that is the biggest thing.'

It is often said that women are the most conservative, and in some ways perhaps this may be so—especially in regard to marriage customs; but it struck me, almost everywhere I went, that it is the women who are most anxious to see these basic land reforms brought in, the men who oppose—not the old men so much as the younger, educated ones who have been to cities. Africa so often seems to reverse the expected order of things.

At any rate, there was no doubt of what these women thought about land reform. It is they, after all, the cultivators, the workers, who know where the shoe pinches, and no wonder they are out of patience with those young men of the towns who, while crying for political freedom, do their best to deny to their own women that measure of relief from hard, grinding toil which land consolidation and enclosure can afford.

Among the Luo, everything is done by clans—extended families would be a more correct term. This group is called the *jokokwaru* and consists of all the descendants of one grandfather. They hold their land in common and each individual, as he marries, is allocated a *shamba* by the *liguru*, the land elders. In time he probably inherits cultivation rights over other pieces from various mothers, uncles and cousins, and that is how fragmentation arises. All grazing land is held in common, as among all other tribes.

The *jokokwaru* system is at once a strength and a weakness, from a modern point of view. Livestock improvers regard it as an unmitigated curse.

'All the members of the group must agree to any sale of stock by any individual,' a vet told me. 'That makes destocking almost impossible, if only out of bloody-mindedness.' The livestock picture generally is a gloomy one. 'We are still trying to get across one or two of the most basic principles, such as dipping or spraying against ticks. Among the Kipsigis,

21:Huxley Q, T-5 (no date) 1960 FL11 Luo FL II

firebrands. So in a small brick room put up by Bishop Tucker in 1911, and now the secondary school's common-room, I met a bunch of schoolmasters, all fluent in English, well-informed and politically-minded.

I put to them the question that most puzzled me; land reforms are unquestionably progressive and of benefit to Africans; by raising living standards they will advance the prospect of self-government; why, then, do so many educated Africans appear to oppose them?

The answer I got was unexpected. Mr. Samwell Ayan, a history teacher, a Makerere graduate, head of the Kenya Teachers' Union and an elected member of the District Council that was embroiled in trouble, spoke impressively—and with moderation and logic.

'People are not getting justice,' he said. 'Men are losing land they are entitled to because of bribery and corruption in the African Courts. Everyone is being bribed—land elders, chiefs, witnesses. Yes, from the African Courts a man can take his case before the D.C., but what can the D.C. do? He sees only the evidence in front of him; it is all rigged; the man loses his land. I know of many cases like that. The Courts are rotten—a washout.

'I know of a case where the president of the Court altered all the evidence after it had been given and sent it up to the superior Court. When the plaintiff heard the false evidence read out, he was hopelessly confused. Clerks take bribes to keep appeal cases beyond the date when the right to appeal lapses. This is being done even in Kisumu. All the land elders can be bribed. The hunger for land is so great.

'What should be done? First, hear land cases before everyone in the location who has, or is entitled to, land—a real people's court. Then, make tape-recordings of evidence in the lower courts; if the evidence is changed, everyone will know. And let the district officer take all land cases so that he hears everything.

'It is because of this corruption and unfairness that people oppose land consolidation. All the same, it has got to come. It is progressive. But do not let it be forced.'

Mr. Ayan spoke with sincerity and even passion. This